

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

KEVIN C. BRATHWAITE,)
)
Plaintiff,)
)
v.) Civ. No. 04-1542-GMS
)
WARDEN THOMAS CARROLL, DEPUTY)
WARDEN BETTY BURRIS, DEPUTY)
WARDEN DAVID PIERCE, DAVID)
HOLMAN, ANTHONY RENDINA,)
CATHY MALAY, LT. WILLIAM)
YODER, LT. LARRY SAVAGE, LT.)
MARCELLO RISPOLI, SGT. ROBERT)
WALLACE, SGT. DAVID PHILLIPS,)
SGT. MATT STEVENSON, SGT.)
STEPHANIE CARPENTER, SGT.)
BAMBI THOMAS, C/O EDWIN)
NKOWPARA, C/O LISE MERSON,)
FIRST CORRECTIONAL MEDICAL)
INC., NURSE KERA, MAJOR)
CHARLES CUNNINGHAM, LT.)
GODWIN, SGT. LOVETT, C/O V.)
DUNN, C/O DON OVERMEYER,)
NURSE BOB HARRIS, DR. RAMAN,)
and NURSE AMY WHITTLE,)
)
Defendants.)

ORDER

At Wilmington this 29th day of April, 2005,
the plaintiff having satisfied the filing prerequisites of 28
U.S.C. § 1915A; and the Court having determined that the
complaint is not frivolous within the meaning of 28 U.S.C. §
1915A(b);

IT IS ORDERED that:

1. The Clerk of the Court shall cause a copy of this

order to be mailed to the plaintiff.

2. Pursuant to Fed. R. Civ. P. 4(c)(2) and (d)(2), the plaintiff shall complete and return to the Clerk of the Court an **original "U.S. Marshal-285" form for each defendant**, as well as for the Attorney General of the State of Delaware, 820 N. FRENCH STREET, WILMINGTON, DELAWARE, 19801, pursuant to DEL. CODE ANN. tit. 10 § 3103©. **Additionally, the plaintiff shall provide the Court with six copies of the complaint and eleven copies of the amended complaint for service upon each defendant. Furthermore, the plaintiff is notified that the United States Marshal will not serve the complaint until all "U.S. Marshal 285" forms have been received by the Clerk of the Court. Failure to provide the "U.S. Marshal 285" forms for each defendant and the attorney general within 120 days of this order may result in the complaint being dismissed or defendants being dismissed pursuant to Federal Rule of Civil Procedure 4(m).**


3. Upon receipt of the form(s) required by paragraph 2 above, the United States Marshal shall forthwith serve a copy of the complaint (D.I. 2), the amended complaint (D.I. 9), this order, a "Notice of Lawsuit" form, the filing fee order(s), and a "Return of Waiver" form upon each of the defendants so identified in each 285 form.

4. Within **thirty (30) days** from the date that the

"Notice of Lawsuit" and "Return of Waiver" forms are sent, if an executed "Waiver of Service of Summons" form has not been received from a defendant, the United States Marshal shall personally serve said defendant(s) pursuant to Fed. R. Civ. P. 4(c)(2) and said defendant(s) shall be required to bear the cost related to such service, unless good cause is shown for failure to sign and return the waiver.

5. Pursuant to Fed. R. Civ. P. 4(d)(3), a defendant who, before being served with process timely returns a waiver as requested, is required to answer or otherwise respond to the complaint within **sixty (60) days** from the date upon which the complaint, this order, the "Notice of Lawsuit" form, and the "Return of Waiver" form are sent. If a defendant responds by way of a motion, said motion shall be accompanied by a brief or a memorandum of points and authorities and any supporting affidavits.

6. No communication, including pleadings, briefs, statement of position, etc., will be considered by the Court in this civil action unless the documents reflect proof of service upon the parties or their counsel. The clerk is instructed not to accept any such document unless accompanied by proof of service.


United States District Judge